

FILED

MAY 02 2013

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HIRAM EVANS,

Defendant.

CR 12-93-GF-DLC

ORDER

United States Magistrate Judge Keith Strong entered Findings and Recommendation in this matter on March 26, 2013. By Order dated April 18, 2013, after an ex parte hearing, the deadline for objections to Judge Strong's Findings and Recommendations was extended until April 25, 2013. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm

conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Strong recommended this Court accept Hiram Evans’ guilty plea after Evans appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of Sexual Abuse (Count II), Burglary, as set forth in the Indictment. In exchange for Defendant’s plea, the United States has agreed to dismiss Count I of the Indictment.

After appearing before Judge Strong, Defendant moved for substitute counsel and sought to withdraw his guilty plea. At a hearing held April 17, 2013, Defendant withdrew his motion for substitute counsel, and indicated he wanted to proceed with his guilty plea. The Court allowed him to withdraw his motion for substitute counsel but gave him until April 25, 2013, to consult with his counsel and notify the Court whether he intended to pursue the withdrawal of his plea.

Defendant did not notify the Court he intended to pursue the withdrawal of his plea, nor did he file any objections to Judge Strong’s Findings and Recommendation. The Findings and Recommendation are now ripe , and having found in them no clear error, and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation

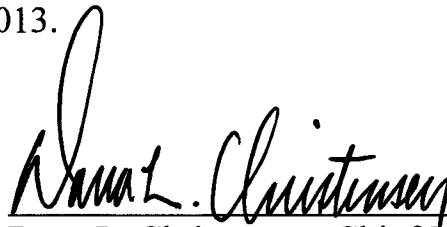
Report.

Accordingly, IT IS ORDERED that Judge Strong's Findings and Recommendation (doc. 23) are ADOPTED in full.

IT IS FURTHER ORDERED that Hiram Evans' motion to change plea (doc. 15) is GRANTED.

IT IS FURTHER ORDERED that his sealed motion (doc. 24) is DENIED as moot.

DATED this 2nd day of May 2013.

A handwritten signature in black ink, appearing to read "Dana L. Christensen", written over a horizontal line.

Dana L. Christensen, Chief Judge
United States District Court